

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BARRY D. ROSS,  
Plaintiff,

v.

RANDSTAD PROFESSIONALS, US, LLC  
DBA RANDSTAD SOURCERIGHT, et al.,  
Defendants.

Case No. [21-cv-01945-SI](#)

**ORDER GRANTING DEFENDANTS'  
MOTION TO STRIKE**

Re: Dkt. No. 40

On August 16, 2021, defendants Walmart, Inc. and Jason Corbett filed the instant motion to strike paragraphs 45, 121, 126, 127, and Exhibits G and H from plaintiff's First Amended Complaint ("FAC"). Dkt. No. 40. Pursuant to Local Rule 7-1(b) the Court finds this matter appropriate for resolution on the papers and therefore VACATES the September 24, 2021 hearing.

First, defendants seek to strike paragraph 45 and Exhibit G arguing both contain information from private settlement negotiations. Indeed, Exhibit G is marked as "For Settlement Purposes Only Confidential and Privileged Pursuant to Evidence Code §1152 et seq." Dkt. No. 30 at 48<sup>1</sup>. Further, paragraph 45 refers to Exhibit G as defendants' "settlement offer." Dkt. No. 30 at ¶45. Plaintiff argues the settlement letter is relevant and referencing it is crucial to identify "glaring shifts in [defendants'] explanations for terminating Ross' employment." Dkt. No. 45. The Court disagrees.

Exhibit G is plainly labeled "For Settlement Purposes Only" and indeed makes an offer to settle the matter. Dkt. No. 30 at 48-49. Pursuant to Federal Rule of Evidence 408 makes clear "conduct or a statement made during compromise negotiations about the claim" is not admissible "to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent

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<sup>1</sup> For ease of reference, page number citations refer to the ECF branded page number in the upper right hand corner of the page.

1 statement or contradiction.” Exhibit G and paragraph 45 fall squarely within Rule 408’s purview –  
2 defendants’ motion to strike both is therefore GRANTED.

3 Second, defendants seek to strike paragraphs 121, 126, 127, and Exhibit H arguing all  
4 contain “confidential personnel data[] purportedly identifying 55 individuals and providing their  
5 ethnicities, employers (i.e. Walmart), job titles, and hire dates.” Dkt. No. 40 at 8. Plaintiff argues  
6 all this data was gathered using publicly available methods including public websites such as  
7 LinkedIn. Dkt. No. 45 at 5. However, plaintiff offers no evidence – in the form of declaration or  
8 otherwise, corroborating this assertion. Defendants counter, that a person’s ethnicity is not available  
9 on public websites like LinkedIn and Google, is well taken. As such, defendants’ motion to strike  
10 paragraphs 121, 126, 127, and Exhibit H is GRANTED. When and if evidence concerning such  
11 evidence is presented, appropriate protective orders can be crafted a necessary.

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13 **IT IS SO ORDERED.**

14 Dated: September 14, 2021



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16 SUSAN ILLSTON  
United States District Judge  
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